

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *JE* D.C.

05 JUL 21 AM 10:20

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

KEVIN MILLEN,

Plaintiff,

vs.

FRIEDMAN'S, INC.,

Defendant.

X
X
X
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X
X

No. 04-3016-M1/An

ORDER DENYING MOTION FOR RECONSIDERATION
AND
SECOND ORDER DIRECTING PLAINTIFF TO PAY THE CIVIL FILING FEE

Plaintiff Kevin Millen filed a pro se complaint pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., and the Americans with Disabilities Act, 29 U.S.C. § 12111 et seq., on December 15, 2004, along with a motion seeking leave to proceed in forma pauperis. As the Plaintiff's motion to proceed in forma pauperis contained no information concerning his monthly income, assets, and financial obligations, the Court issued an order on May 11, 2005, denying leave to proceed in forma pauperis and directing the Plaintiff to pay the \$150 civil filing fee within thirty days.

On May 24, 2005, Plaintiff filed another motion, entitled "Order Asking for Leave to Use In Forma Pauperis And Order Directing Defendants to Pay Monetary funds [sic] Owed to Plaintiff," which the Court construes as a motion seeking

reconsideration of the decision denying leave to proceed in forma pauperis. Nothing in the Plaintiff's motion provides any basis for reconsidering the Court's previous order. In particular, the Plaintiff's motion contains no financial information demonstrating that the Plaintiff is unable to pay the civil filing fee or give security therefor, as required by 28 U.S.C. § 1914. The other factors cited by the Plaintiff, such as the time and effort he is willing to put into the case and the uses to which he would put any funds received in the event he prevails on the merits, are not relevant to the question of whether the Plaintiff is entitled to proceed in forma pauperis.

Accordingly, the Court DENIES the Plaintiff's motion for reconsideration. This decision is final. If the civil filing fee is not paid by August 5, 2005, this action will be dismissed, without prejudice, for failure to prosecute.

IT IS SO ORDERED this 20 day of July, 2005.



JON PHIPPS MCCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 5 in case 2:04-CV-03016 was distributed by fax, mail, or direct printing on July 21, 2005 to the parties listed.

Kevin Millen
4104 Stillwood Dr.
Memphis, TN 38128

Honorable Jon McCalla
US DISTRICT COURT